

ENVIRONMENTAL PROTECTION COMMISSION
SPRCIAL MEETING/PUBLIC HEARING
MINUTES
March 21, 2007

Wednesday, March 21, 2007 7:30 p.m.

Auditorium Town Hall

Chairman Hillman called the meeting to order at 7:35 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Pete Kenyon, Ned Lewis, Ellen Kirby, Craig Flaherty and Reese Hutchison.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-76-2006 Mark Raskopf, 60 Andrews Drive, proposing to construct a retaining wall and place fill within the upland review area.

Mr. Raskopf represented himself. Mr. Hillman said the Commission received a report from Save-A-Tree. Many of the trees are moderate at best. He asked which trees are proposed to come down. Mr. Raskopf said that everything tagged with orange are to be removed. Ms. Cameron said she visited the site and could see a problem in the area behind the air conditioning units. She said the rest of the area looked OK. She asked why the application was doing such extensive work. Mr. Raskopf said the situation is dangerous. In 1997 a garage was built which involved blasting of the ledge and turned the area into a difficult rock slope. Ms. Cameron asked if they could put a fence up at the top of the slope. Mr. Raskopf said that a fence would not stop kids and the material is still moving. He said he would like to avoid having his foundation move. He said they are proposing to replace the trees removed with native species. Mrs. Cameron said the existing trees are native species. Mr. Hillman said the most recent arborist's report is not consistent with the December Report. Ms. Cameron said she would like to see an alternative with less wall length. Mr. Hutchison asked about the elevation of the wall. Mr. Raskopf said there is approximately a four foot drop. Mr. Hutchison asked if this would create a safety issue and if a rail would be required. Mr. Flaherty said there is no code for railings on walls which are not near a pedestrian access. Mr. Raskopf said he would put a fence on the slope above the wall. Mr. Flaherty said the existing slope is 1 1/2:1 and the proposed slope is 2:1 which is the minimum to establish vegetation. Mr. Flaherty suggested moving the wall back an additional 10 feet. Mr. Hillman said it appeared that at least 4-5 Commission members feel there is a likelihood of a significant impact and would like to see alternatives such as moving the wall, saving additional trees and showing fences on the plan. Mr. Hillman made a motion to deny the application without prejudice. Ms. Cameron seconded the motion and it passed 6-0 with one abstention (Mr. Kenyon abstained).

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Mr. Hillman read the next agenda item:

EPC-85-2006 John P. Gallagher and Tricia Gallagher, 49 Deepwood Road, proposing to construct a replacement house and related construction activities within the upland review area.

Mr. Hillman said the Commission has received the draft approval. Mr. Flaherty made a motion to approve the application. Mr. Hutchison seconded the motion. Ms. Kirby requested a condition requiring the removal of the gardening debris from the wetland. The amended motion to approve the application passed unanimously.

Mr. Hillman informed the Commission about the Board of Selectmen meeting on March 19th and the discussion about Stony Brook Flooding. He said that Mr. Steeger made a presentation regarding studies which were done beginning in 1957. He said studies were done periodically thereafter. None of the studies were of the areas north of the railroad. The Commission has received numerous complaints about areas to the north. The recommendations in those studies were not done because of cost reasons or easement problems. He said that EPC, P&Z and DPW should work together for a town wide drainage study. He said that the Commission members believe there are many different opinions on the causes of the flooding which indicates the need for a study. Mr. DiNardo of 2 Stony Brook Road said the Commission may consider exploring measures which can be implemented without a study. The Commission decided to discuss the issue at a special meeting on April 11, 2007.

The Public Hearing was opened at 8:35. Mr. Hillman read the first hearing item.

EPC-07-2007 Rod and Julia Parker, 29 Point O'Woods Road, proposing drainage repairs and improvements within the regulated area and within the upland review area.

John Martucci represented the applicant. Mr. Hillman asked him if they have reached an agreement with Mr. Pegler. Mr. Martucci said they spoke after the last hearing and Mr. Pegler had agreed with the changes discussed at the hearing. Mr. Martucci said they received a letter from Kate Throckmorton which requested that the swale be relocated to avoid tree roots. He said they also received permission to clean out the drainage structures on the adjacent property. He said the Peglers may submit an application to extend the swale. Mr. Hutchison suggested language in the approval that indicated the Commission would look favorably on extending the swale.

Mr. Hillman made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously. The Commission proceeded to deliberate on the application. Mr. Hillman said the application moved in a positive direction and satisfied the concerns of the easterly neighbor. Mr. Flaherty said the application minimized the work in the regulated area necessary to provide flood protection. Mr. Hutchison said he would like the approval to include a maintenance plan. The Commission requested staff to draft an approval resolution.

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Mr. Hillman read the next hearing item.

EPC-06-2007 Joseph and Maria Teresa Criscuolo, 95 Hoyt Street, proposing driveway construction within a regulated.

Attorney Arthur Engle represented the applicant. Ms. Cameron said she is acquainted with Mrs. Bussey and has worked on her computer. She said she does not believe it will influence her ability to review the application fairly. Mr. Engle said they did not have any objection to Ms. Cameron sitting on the application.

Mr. Engle said their application materials and the Land-Tech report speak for themselves. He said the driveway is a 15% grade and has presented problems in the past. They are proposing a new access to Miller Road. He said the grading on Miller Road was discussed at the last hearing. Miller Road is a 10% grade for the first 50 feet and 5-8% thereafter. Mr. Hillman asked Mr. Flaherty if the information provided on Miller Road is enough. Mr. Flaherty said the information is helpful. Mr. Engle said the Environmental Impact Assessment states that the surface drainage will be preserved and any environmental impacts will be mitigated. He said the plans were revised in response to Land-Tech's comments from the previous application. Mr. Hillman said the Commission must consider that the removal of wetlands will have an impact and is one step in the process and the second step is to maintain the wetland functions. Mr. Engle said that Land-Tech was hired to review the application and they concurred with the applicant's consultants. They reviewed eight alternatives and determined that five are not feasible. They discussed the prudence of the other three. Mr. Hillman said Land-Tech did not give an opinion on the no-build alternative.

Ms. Cameron said there must be a justification for safety reasons. Mr. Flaherty noted it is clear that the Land-Tech Report said the Miller Road access is preferable for safety. Ms. Cameron said a private homeowner has the ability to clear a driveway with sand and salt. She said they could also consider using electric coils. Mr. Engle said there are still issues of grades and sight lines. Mr. Flaherty said there is no data on sight lines. Mr. Engle said Miller Street is wider and allow for better sight lines. Mr. Hutchison said the removal of a driveway would eliminate a curb cut on the State highway. Mr. Flaherty said the Commission's jurisdiction require that they identify impacts, look for ways to avoid the impacts, and if the only alternative is to impact the wetland then they look for mitigation. Mr. Kenyon said he thought the sight line impediments at the foot of the driveway make it unsafe.

Don Ferlow, of Stearns and Wheler, said the standards for pitches on driveways were written without taking into consideration the differences in climate. He said the Darien standard in the Zoning regulations is 10%. He said some textbooks say 12 or 15%. CT DOT standards recommend a 30 foot flat area with 2-3%. He said that providing a 30 foot distance at 2-3% then 12% to in front of the garage would make the parking spaces

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too steep. They need to maintain the parking spaces and a place to turn around. He said the existing conditions are unsafe.

Mr. Ferlow said the wetland is defined by wetland soil type. Most of the vegetation grows in both wetlands and upland. Only a few species grow predominately in wetlands and there are no obligate wetland species. He said the wetland impacts can be mitigated after deciding that the alternative driveways are not feasible or prudent. Mr. Hutchison asked if the driveway would help or hurt flooding. Mr. Ferlow said the design is to control both peak flows and volume. He said they incorporated Bob Oley's suggestion to provide a failsafe solution to trap overflows in the ponded area. He described the proposed drainage system. Mr. Hutchison asked what size storm the system was sized for. Mr. Ferlow said a 50 year storm. Mr. Hutchison asked what the effect would be on the Bussey property. Mr. Ferlow said there would be no significant change. Mr. Flaherty asked if there would be a benefit to the Bussey property if, during certain storms, water is diverted from their property. Mr. Ferlow said the benefit is to not increase flows and provided a fail safe method to collect the overflow in the ponded area. Mr. Hillman said he would be concerned about maintenance. Mr. Engle said they would be agreeable to a maintenance agreement. Ms. Cameron asked if there could be a benefit to using grass pavers. She said she would be concerned with gravel being plowed into the wetland. Mr. Ferlow said that pavers would add considerable cost to the project and that snow will be plowed to the edge not into the wetland. He said the use of pavers for the first 80 feet could satisfy Bob Oley's comment regarding the west to east driveway pitch for that part of the driveway.

Mr. Kenyon asked Mr. Oley to describe the functionality of the wetlands as they exist vs. under the proposed conditions. Mr. Oley said the existing wetland functions are low to moderate. The project will provide some minor improvements. Ms. Kirby asked if they are proposing to remove the existing driveway to Hoyt Street. Mr. Ferlow said yes, it will become a walkway. Ms. Cameron asked if they could provide more turn around space. Mr. Ferlow said it would not solve the safety issue.

Mr. Hillman opened the meeting to public comment.

Matt Popp, of Environmental Land Solutions said he was retained by Mr. and Mrs. Bussey. He said if he had been retained by the applicant he would have told them that obtaining a wetland permit would be a longshot. He said the proposal will involve filling 1500 square feet of functioning wetland. He said two of the wetland functions would go down in value: wildlife habitat and visual quality. He said there is a feasible and prudent alternative and provided a sketch. He said the alternative would require the removal of trees close to the house which, in his opinion, should be removed anyway. He said there would be earthwork required. He said the proposed driveway would not be very safe because of the electrical box affecting sight lines on Miller Road. Emergency vehicles would have to get to the house and the 10 foot wide driveway is substandard. He said there will be an increase in runoff and there are no water quality measures proposed except for a level spreader which is on the property line. Ms. Cameron asked if he had

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reviewed Alternative 2B. Mr. Popp said he reviewed that alternative and it would require some wall construction and removal of trees.

Mr. Droney of Miller Road read a prepared statement and provided copies. He asked about the area of wetland filling which he said would be significantly more than 1500 square feet based on the depth of the excavation. Mr. Ferlow said the impact to the wetland is measured by the surface area and does not consider the depth of grading. Mr. Droney said the applicant should provide the volume of the trucking required.

Mr. Moyer of 23 Miller Road read a statement and provided copies. He described the wetland purchase of property behind the homes on Miller Lane.

Mr. Hagen of 17 Miller Road read a statement and provided copies. He said he is opposed to the plan because of the wetland destruction and the feasible and prudent alternatives.

Mr. McGrath of 31 Miller Road said he has safety concerns about Miller Road. He provided a handout with diagrams and describing alternatives.

The Commission continued the public hearing until April 11 at 7:30 p.m. in the Town Hall.

Minutes of January 3, 2007 Mr. Hillman made a motion to approve the minutes with changes. Mr. Kenyon seconded the motion and it passed unanimously.

Minutes of January 17, 2007 Mr. Flaherty made a motion to approve the minutes with changes. Mr. Kenyon seconded the motion and it passed unanimously.

Minutes of February 7, 2007 Mr. Hillman made a motion to approve the minutes with changes. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Flaherty made a presentation about the increases in annual rainfall occurring due to global climate change. The problems of flooding will be increased due to the increased frequency and intensity of significant rainfall events.

Mr. Flaherty made a motion to adjourn. Ms. Kirby seconded the motion and it passed unanimously.

The meeting adjourned at 11:20 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer